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IN THE
Supreme Court of the United States

EMR NETWORK,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION
AND UNITED STATES OF AMERICA,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND BRIEF OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO, CLC AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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MOTION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to Rule 37.3(b) of the Rules of the Supreme Court of the United States, the International Association of Fire Fighters, AFL-CIO, CLC, ("IAFF") hereby requests leave to file the accompanying *amicus curiae* brief. This brief is submitted in support of the petition for writ of certiorari to the United States Court of Appeals for the District of Columbia. Petitioner EMR Network has consented to the filing of this brief. Respondents Federal Communication Commission ("FCC" or "Commission") and United States of America have not consented.

As set forth in the accompanying brief, the IAFF is the leading advocate for fire fighter health and safety in North America, representing more than 267,000 full-time professional fire fighters and paramedics. The IAFF, as well as its members and affiliates, have a unique and significant interest in the growing use of fire and rescue service facilities as base stations for wireless telecommunications towers and antennas, the exposure of IAFF members at those stations to low-intensity radiofrequency and microwave radiation emitted from these wireless telecommunications towers and antennas, and the potential effects of such exposures on the health of IAFF members.

The IAFF is greatly concerned that the Court of Appeals' decision affirming the FCC's dismissal of EMR Network's petition requesting the Commission to initiate an inquiry on the need to revise its regulations will deprive IAFF members of the research and regulatory oversight that is needed on this issue. Accordingly, the IAFF respectfully requests leave to file the accompanying *amicus curiae* brief.

Respectfully submitted,

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INTEREST OF THE *AMICUS*

The International Association of Fire Fighters ("IAFF"), AFL-CIO, CLC, the leading advocate for fire fighter health and safety in North America, is headquartered in Washington, D.C., and represents more than 267,000 full-time professional fire fighters and paramedics. More than 2,900 affiliates protect the lives and property of over 80 percent of the continent's population in nearly 6,000 communities in Canada and in every state of the United States.

Since its inception close to a century ago, the IAFF has taken an active role in protecting the health and safety of the public at large through the efforts of its members and affiliates in preventing and fighting fires, providing life support and medical assistance to victims of natural disasters, fires, violent crimes and terrorist attacks, and containing and reducing exposures to toxic chemicals and other contaminants posing a threat to the health and safety of North America's communities. The IAFF has also been in the forefront of supporting and advancing public policies that enable North America's communities to better prevent and respond to all manner of threats to the public health and safety, from building and forest fires to structural collapses, chemical spills and terrorism.

Central to the IAFF's mission of protecting the safety and health of the public is ensuring that its members, who risk life and limb in support of this vital mission on a daily basis, are able to report to their fire and rescue stations secure in the knowledge that, while their jobs are inherently dangerous, their workplaces are safe. Unsafe fire and rescue stations also pose a serious risk to the health and safety of the public at large, insofar as injuries and illnesses among fire fighters and

paramedics caused by workplace exposures to environmental toxins ultimately hinder the ability of first responders to provide vital fire and rescue services to the communities they are pledged to serve.

In this regard, the IAFF has become increasingly concerned by the growing number of cellular towers and other wireless telecommunications mechanisms that are being placed on the roofs of fire stations and other fire and rescue facilities. This concern is understandable, given that IAFF members are required to work at fire and rescue stations harboring telecommunications towers and antennas for shifts regularly lasting 24 hours or more, and are therefore being exposed to the low-intensity radiofrequency (RF) and microwave (MW) radiation[1] emitted by the telecommunications towers and antennas to a much higher degree than the general population.

In August 2004, the membership of the IAFF adopted a Convention Resolution[2] opposing the use of fire stations as base stations for towers and/or antennas that conduct cellular telephone transmissions until a study with the highest scientific merit and integrity on the health effects of exposure to low-intensity RF/MW radiation is conducted and, in connection therewith, it is proven that the use of fire stations and other fire and rescue facilities for cellular tower and/or antenna base stations poses no health risk to IAFF members. The membership of the IAFF is increasingly exposed to low-intensity RF/MW radiation through the growing use of fire and rescue facilities as base stations for wireless telecommunications towers and antennas. The IAFF, therefore, has a unique interest in the outcome of this case.

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[1] "Low intensity RF/MW radiation" exposure is exposure that does not raise the temperature of the cells of the human body.

[2] IAFF Resolution No. 15, August 2004.

BASIS FOR *AMICUS'S* SUPPORT OF PETITION

The arguments and interests of Petitioner EMR Network are well presented and expressed in its petition and will not be further elaborated upon here. The IAFF fully supports Petitioner's view regarding the need for the Federal Communications Commission ("FCC") to conduct additional studies on the health effects of prolonged exposure to low-intensity RF/MW radiation, to promulgate the results of such studies and, if found necessary, to formulate and implement regulations that protect the public from such exposures and mitigate the adverse health effects thereof.

It is the general position of the wireless telecommunications industry that exposure to low-intensity RF/MW radiation does not pose a risk to human health unless the intensity of the radiation is sufficient to heat body tissue. It is important to note, however, that this belief is based on non-continuous exposures by the general public to low-intensity RF/MW radiation emitted from wireless telecommunications base stations. Furthermore, most studies that form the basis for this belief are at least five years old and generally focus on the health effects of cellular telephone use and not, as would be examined by the study Petitioner has urged Respondent to undertake, the potential health effects of low-intensity RW/MW radiation on those working and living in close proximity to wireless telecommunications towers and/or antennas.

IAFF members who work in stations upon which these towers and antennas are placed have particular reason to be concerned about any potential risk of such exposure. Unlike the general public, our members are required to sleep, eat and otherwise reside at these locations so they are always prepared to respond to emergencies.

As previously referenced, the IAFF's membership adopted a resolution at its 2004 Convention calling for further scientific study on the health risks of using fire stations and other fire and rescue facilities for cellular towers and/or antenna base stations. This resolution was enacted, in part, because some IAFF members who work out of fire and rescue facilities used as wireless telecommunication tower and antenna base stations have reported experiencing migraine headaches, extreme fatigue, disorientation, slowed reaction time, vertigo, vital memory loss, and attention deficit amidst life-threatening emergencies, and are concerned that the onset of these conditions was related to the activation of the wireless telecommunications towers and/or antennas on and around the fire and rescue service facilities from which they work.

The IAFF notes the voluminous body of scientific research and literature cited by Petitioners from the record of this case suggesting grounds for these concerns, and will let this record speak for itself. Pursuant to its Convention resolution, the IAFF is also investigating funding for a study, to be conducted among IAFF members in the United States and Canada, to determine whether the use of fire stations and other fire and rescue facilities as cellular telephone base stations poses a health risk to IAFF members. The study would compare and contrast illnesses experienced by fire fighters and paramedics working out of facilities with cellular telephone towers and/or antennas with those of fire fighters working out of facilities without such towers and/or antennas, and would focus on the effects of long-term exposures to low-frequency RF/MW radiation on the central nervous and immune systems of fire fighters and paramedics.

In the meantime, however, the IAFF strongly believes that its members should not be required to live with doubts as to whether their exposure to low-intensity RW/MW radiation

is subjecting them to risks beyond those related to their already risky professions. The IAFF therefore strongly supports the Petitioner EMR Network's Petition for Writ of Certiorari, and believes that the Respondent FCC should be required to take a closer look at the effect, if any, of low-intensity RF/MW radiation on the health of those who live and work under or around wireless telecommunications towers and antennas.

CONCLUSION

For the foregoing reasons and those presented by Petitioner EMR Network, the Petition for a Writ of Certiorari should be granted.

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